

REMARKS / ARGUMENTS

Status of Claims

Claims 1-40 were pending and have been rejected by the Examiner. Claims 1, 17, and 33 have been amended. Accordingly, claims 1-40 are presented and at issue.

Rejections Under 35 U.S.C. §102(b)

Claims 1-40 were rejected under 35 U.S.C. 102(b) as being anticipated by Harada et al. (US 2003/0009681 A1). Applicants traverse this rejection for the following reasons. It is respectfully submitted that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, *in a single prior art reference.*” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Moreover, “[t]he identical invention must be shown in as complete detail as is contained in the *** claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Furthermore, the single source must disclose all of the claimed elements “arranged as in the claim.” *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 716, 223 U.S.P.Q. 1264, 1271 (Fed. Cir. 1984). Missing elements may not be supplied by the knowledge of one skilled in the art or the disclosure of another reference. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780, 227 U.S.P.Q. 773, 777 (Fed. Cir. 1985).

Applicants have amended independent claims 1, 17, and 33 to now recite, inter alia, “wherein the clearinghouse server does not pre-store the title key which comprises an underlying title key upon which a plurality of encrypted title keys, including the encrypted title key, are based”. No new matter has been added by these amendments as antecedent support may be found in the specification as originally filed, such as at paragraphs [0009]- [0015] and [0032] to [0038], for example.

Applicants’ claimed feature wherein the clearinghouse server does not pre-store the title key which comprises an underlying title key upon which a plurality of encrypted

title keys, including the encrypted title key, are based, offers significant operational advantages not present in the Harada reference. For example, owners can begin selling content as soon as it has been created, without needing a prior secure communication with the clearing house to initialize the process for each piece of content. Moreover, the Examiner erred in maintaining that Applicants' claimed feature wherein the clearinghouse server does not pre-store the title key was anticipated by Harada.

The Examiner is confusing title keys with ENCRYPTED title keys. A single title key is encrypted differently for each piece of media. Thus, a single title key might have thousands, perhaps millions of encrypted versions, called encrypted title keys. These are not stored ahead of time, neither in our system nor in Harada. However, the underlying title key upon which all these encrypted title keys are based is the issue. Harada stores the underlying title key in the clearing house; by contrast, Applicant's claimed invention does not store the title key in the clearing house.

The Examiner cited paragraph [0323] of Harada as purportedly illustrating an example of Harada not storing title keys. This paragraph has nothing to do with storage of a title key; rather, the paragraph describes authentication between the server (our clearing house) and a recorder. Finally, as part of that authentication, encrypted title keys are passed from the server to the recorder, and these would be unique to the recording media.

Harada does describe the base title keys. The Examiner's attention is directed to paragraph [0233] of Harada: "As shown in FIG. 16, the distribution data storage unit 202 is composed of areas for storing each of a title key, a digest, and usage condition data. THE TITLE KEY AND THE USAGE CONDITION DATA ARE STORED IN ADVANCE. [emphasis added]." FIG.13 of Harada is even clearer that the title key in distribution data storage unit 202 is, in fact, kept in the server (clearing house).

In view of the foregoing, claims 1, 17, and 33 are patentable over Harada. Claims 2-16 depend from claim 1 and include all recitations thereof. Similarly, claims 18-32 depend from claim 17 and include all recitations thereof. Likewise, claims 34-40 depend from claim 33 and include all recitations thereof. Accordingly, it is submitted that claims

2-16, 18-32, and 34-40 are patentable over Harada for the reasons discussed above in connection with claims 1, 17, and 33.

In light of the foregoing remarks and amendments, Applicants respectfully submit that the Examiner's rejections under 35 U.S.C. §102(b), have been traversed, and that the application is now in condition for allowance. Such action is therefore respectfully requested. If a communication with Applicants' Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No.

06-1130. In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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